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AMENDED IN SENATE JUNE 3, 2003

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AMENDED IN SENATE APRIL 10, 2003

SENATE BILL

No. 130

Introduced by Senator Chesbro

February 5, 2003

An act to add Division 1.5 (commencing with Section 1180) to the Health and Safety Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 130, as amended, Chesbro. Health and care facilities: use of seclusion and behavioral restraints.

Existing law provides for the licensure and regulation of health facilities, including various types of hospitals that provide mental health treatment services, by the State Department of Health Services.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care and residential facilities by the State Department of Social Services. Existing law authorizes these facilities to provide mental health treatment services.

Under existing law, the State Department of Mental Health is charged with the state administration of state hospitals for the mentally

disordered and the State Department of Developmental Services is charged with the administration of state institutions for the developmentally disabled.

Under existing law, these facilities are authorized to provide secure containment or use seclusion and restraints, as specified, on patients.

This bill would require the California Health and Human Services Agency, to provide leadership and coordination necessary to reduce the use of seclusion and behavioral restraints in facilities that are licensed, certified, or monitored by *the above* departments that fall within ~~its~~ *the* agency's jurisdiction. *This bill would provide that the agency shall not be required to implement these provisions if implementation cannot be achieved within existing resources unless additional funding becomes available for this purpose.*

This bill would require the State Department of Mental Health, ~~and the State Department of Developmental Services, and the secretary, respectively,~~ to develop technical assistance and training programs to support the efforts of facilities *operated by these departments* to reduce or eliminate the use of seclusion and behavioral restraints in ~~specified~~ *those* facilities, and to take steps to establish a system of data collection. *This bill would require that facilities operated by these departments report each death or serious injury of a person occurring during, or related to, the use of seclusion or behavioral restraints.*

This bill would require the Secretary of the California Health and Human Services Agency, or his or her designee, to develop technical assistance and training programs to support the efforts of facilities, including psychiatric units of general acute care hospitals, acute psychiatric hospitals, psychiatric health facilities, crisis stabilization units, community treatment facilities, group homes, skilled nursing facilities, intermediate care facilities, community care facilities, and mental health rehabilitation centers, to reduce or eliminate the use of seclusion and behavioral restraints in these facilities, and to take steps to establish a system of data collection. The bill would require that these facilities report each death or serious injury of a person occurring during, or related to, the use of seclusion or behavioral restraints. This bill would provide that neither the agency nor any department shall be required to implement these provisions if implementation cannot be achieved within existing resources unless additional funding becomes available.

This bill would authorize specified facilities to use seclusion and behavioral restraints for behavioral emergencies only when a person's



behavior presents an imminent danger of serious harm to the person or others, would require an initial assessment of each person upon admission for these purposes, and would prohibit specified facilities from using specified types of seclusion and behavioral restraints. This bill would also require these facilities to conduct reviews, as specified, for each episode of the use of seclusion or behavioral restraint, to conduct debriefings, as specified, and to document the incident. ~~This bill would also require certain facilities to report, as specified, each death or serious injury occurring during, or related to, the use of seclusion or behavioral restraints.~~

This bill would require the State Department of Health Services, the State Department of Mental Health, the State Department of Social Services, and the State Department of Developmental Services to make annual reports to the Legislature on these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The use of seclusion and behavioral restraints is not
- 4 treatment, and their use does not alleviate human suffering or
- 5 positively change behavior.
- 6 (b) Good milieu programs, interesting activities, and attention
- 7 to every person's need for sufficient space all contribute to an
- 8 environment in which *the use of* seclusion and behavioral
- 9 restraints can be minimized.
- 10 (c) An ongoing commitment to varied, active, and stimulating
- 11 choices of programming is important in addressing the problems
- 12 of the use of seclusion and behavioral restraints in facilities.
- 13 (d) The commitment of managers and staff of facilities is
- 14 essential to changing the culture of those facilities and reducing the
- 15 use of seclusion and behavioral restraints, and providing a safer
- 16 and more therapeutic environment for mental health patients,
- 17 residents, and staff in California.
- 18 (e) In order to achieve the goal of a reduction in the use of
- 19 seclusion and behavioral restraints, California must utilize the best
- 20 practices developed in other states, and use the most efficient
- 21 modern resources to accomplish these goals, including

1 computerized data collection and analysis, public access to this
2 information on the Internet, strategies for organizational change,
3 staff training in risk assessment, crisis prevention and
4 intervention, debriefing models, and recovery-based treatment
5 models.

6 (f) Adequate numbers of staff are essential to reducing
7 seclusion and behavioral restraints in facilities; however,
8 California faces a human resource crisis in mental health care.
9 According to the California Mental Health Planning Council,
10 vacancy rates for mental health positions in California exceed 30
11 percent. The Employment Development Department estimates
12 that between 1998 and 2008, public and private providers will
13 need to fill 45,000 mental health positions. To address this crisis,
14 the Little Hoover Commission has called for coordinated,
15 integrated, and success-oriented strategies such as hiring clients,
16 recruitment efforts, training academies, scholarships and loan
17 forgiveness, workload analysis, and ensuring training in core
18 competencies. The Legislature finds that resolving California's
19 mental health workforce crisis is important to the goal of reducing
20 seclusion and behavioral restraints in California facilities.

21 (g) It is the intent of the Legislature in enacting this act to
22 achieve a reduction in the use of seclusion and behavioral restraints
23 in facilities in California.

24 SEC. 2. Division 1.5 (commencing with Section 1180) is
25 added to the Health and Safety Code, to read:

26
27 DIVISION 1.5. USE OF SECLUSION AND BEHAVIORAL
28 RESTRAINTS IN FACILITIES
29

30 1180. (a) The California Health and Human Services
31 Agency, in accordance with their mission, shall provide the
32 leadership and coordination necessary to reduce the use of
33 seclusion and behavioral restraints in facilities that are licensed,
34 certified, or monitored by departments that fall within its
35 jurisdiction.

36 (b) The agency may make recommendations to the Legislature
37 for additional ~~facilities~~ *or facilities, or for* additional units or
38 departments within facilities, that should be included within the
39 requirements of this division in the future, including, but not
40 limited to, emergency rooms.



(c) At the request of the secretary, the involved state departments shall provide information ~~about~~ regarding existing training protocols and requirements ~~for~~ related to the utilization of seclusion and behavioral restraints by direct care staff who work in facilities within their jurisdiction. All involved state departments shall cooperate in implementing any training protocols established pursuant to this division. *It is the intent of the Legislature that training protocols developed pursuant to this division be incorporated into existing training requirements and opportunities. It is further the intent of the Legislature that, to the extent feasible, the training protocols developed pursuant to Section 1180.2 be utilized in the development of training protocols developed pursuant to Section 1180.3.*

~~(d) It is the intent of the Legislature that the secretary~~ The secretary, or his or her designee, is encouraged to pursue federal and private funding to support the development of a training protocol that can be incorporated into the existing training activities for direct care staff conducted by the state, facilities, and educational institutions *in order to* to reduce the use of seclusion and restraints.

~~(e) This section should be implemented as soon as it can reasonably be achieved within existing resources. The secretary or his or her designee shall make recommendations to the Legislature on how to best assess the impact of serious staff injuries sustained during the use of seclusion or behavioral restraints, on staffing costs, and on workers' compensation claims and costs.~~

(f) The agency shall not be required to implement this section if implementation cannot be achieved within existing resources, unless additional funding for this purpose becomes available. The agency and involved departments may incrementally implement this section in order to accomplish its goals within existing resources, ~~or through the use of federal or private funding or any funding, or upon the subsequent appropriation of funds by the~~ Legislature for this purpose, or all of these.

1180.1. For purposes of this division, the following definitions apply:

(a) "Behavioral restraint" means "mechanical restraint" or "physical restraint" as defined in this section, used as an intervention when a person presents an immediate danger to self or to others. It does not include restraints used for medical

1 purposes, including, but not limited to, securing an intravenous
2 needle or immobilizing a person for a surgical procedure, or
3 postural restraints, or devices used to prevent injury or to improve
4 a person's mobility and independent functioning rather than to
5 restrict movement.

6 (b) "Containment" means a brief physical restraint of a person
7 for the purpose of effectively gaining quick control of a person
8 who is aggressive or agitated or who is a danger to self or others.

9 (c) "Mechanical restraint" means the use of a mechanical
10 device, material, or equipment attached or adjacent to the person's
11 body that he or she cannot easily remove and that restricts the
12 freedom of movement of all or part of a person's body or restricts
13 normal access to the person's body, and that is used as a behavioral
14 restraint.

15 (d) "Physical restraint" means the use of a manual hold to
16 restrict freedom of movement of all or part of a person's body, or
17 to restrict normal access to the person's body, and that is used as
18 a behavioral restraint. "Physical restraint" is any staff-to-person
19 physical contact in which the person unwillingly participates.
20 "Physical restraint" does not include briefly holding a person
21 without undue force in order to calm or comfort, or physical
22 contact intended to gently assist a person in performing tasks or to
23 guide or assist a person from one area to another.

24 (e) "Seclusion" means the involuntary confinement of a
25 person alone in a room or an area from which the person is
26 physically prevented from leaving. "Seclusion" does not include
27 a "timeout," as defined in regulations relating to facilities
28 operated by the State Department of Developmental Services.

29 (f) "Secretary" means the Secretary of the California Health
30 and Human Services Agency.

31 (g) "Serious injury" means any significant impairment of the
32 physical condition as determined by qualified medical personnel,
33 and includes, but is not limited to, burns, lacerations, bone
34 fractures, substantial hematoma, or injuries to internal organs.

35 1180.2. (a) This section shall apply to the state hospitals
36 operated by the State Department of Mental Health and facilities
37 operated by the State Department of Developmental Services that
38 utilize seclusion or behavioral restraints.

39 (b) The State Department of Mental Health and the State
40 Department of Developmental Services shall develop technical

1 assistance and training programs to support the efforts of facilities
2 *described in subdivision (a)* to reduce or eliminate the use of
3 seclusion and behavioral restraints in those facilities described in
4 ~~subdivision (a)~~ facilities.

5 (c) Technical assistance and training programs should be
6 designed with the input of stakeholders, including clients and
7 direct care staff, and should be based on best practices that lead to
8 the avoidance of *the use of* seclusion and behavioral restraints,
9 including, but not limited to, all of the following:

10 (1) Conducting an intake assessment that is consistent with
11 facility policies and that includes issues specific to *the use of*
12 seclusion and behavioral restraints as specified in Section 1180.4.

13 (2) Utilizing strategies to engage clients collaboratively in
14 assessment, avoidance, and management of crisis situations in
15 order to prevent incidents of *the use of* seclusion and behavioral
16 restraints.

17 (3) Recognizing and responding appropriately to underlying
18 reasons for escalating behavior.

19 (4) Utilizing conflict resolution, effective communication,
20 ~~de-escalation~~, *de-escalation*, and client-centered ~~problemsolving~~
21 *problem-solving* strategies that diffuse and safely resolve
22 emerging crisis situations.

23 (5) Individual treatment planning that identifies risk factors,
24 positive early intervention strategies, and strategies to minimize
25 time spent in seclusion or behavioral restraints. Individual
26 treatment planning should include input from the person affected.

27 (6) While minimizing the duration of time spent in seclusion or
28 behavioral restraints, using strategies to mitigate the emotional
29 and physical discomfort and ensure the safety of the person
30 involved in seclusion or behavioral restraints, including input
31 from the person about what would alleviate his or her distress.

32 (7) Training in conducting an effective debriefing meeting as
33 specified in Section 1180.5, including the appropriate persons to
34 involve, the voluntary participation of the person who has been in
35 seclusion or behavioral restraints, and strategic interventions to
36 engage affected persons in the process. The training should include
37 strategies that result in maximum participation and comfort for the
38 involved parties to identify factors that lead to *the use of* seclusion
39 and behavioral restraints and factors that would reduce the
40 likelihood of future incidents.

(d) (1) The State Department of Mental Health and the State Department of Developmental Services shall take steps to establish a system of mandatory, consistent, timely, and publicly accessible data collection regarding the use of seclusion and behavioral restraints in facilities described in this section. It is the intent of the Legislature that data be compiled in a manner that allows for standard statistical comparison.

(2) The State Department of Mental Health and the State Department of Developmental Services shall develop a mechanism for making this information publicly available on the Internet.

(3) Data collected pursuant to this section shall include all of the following:

(A) The number of deaths that occur while persons are in seclusion or behavioral restraints, or where it is reasonable to assume that a death was proximately related to the use of seclusion or behavioral restraints.

(B) The number of serious injuries sustained by persons while in seclusion or subject to behavioral restraints.

(C) The number of serious injuries sustained by staff that occur during the use of seclusion or behavioral restraints.

(D) The number of incidents of seclusion.

(E) The number of incidents of use of behavioral restraints.

(F) The duration of time spent per incident in seclusion.

(G) The duration of time spent per incident subject to behavioral restraints.

(H) The ~~use of~~ *number of times an* involuntary emergency medication ~~that~~ is used to control behavior, *as defined by the State Department of Mental Health.*

(e) A facility described in subdivision (a) shall report each death or serious injury of a person occurring during, or related to, the use of seclusion or behavioral restraints. This report shall be made to the agency designated in subdivision (h) of Section 4900 of the Welfare and Institutions Code no later than the close of the business day following the death or injury. The report shall include the encrypted identifier of the person involved, and the name, street address, and telephone number of the facility.

1180.3. (a) This section shall apply to ~~all facilities that utilize seclusion or behavioral restraints except state mental hospitals and developmental centers. Facilities to which this section applies~~

1 ~~include, but are not limited to, the~~ psychiatric units of general acute
2 care hospitals, acute psychiatric hospitals, psychiatric health
3 facilities, crisis stabilization units, community treatment facilities,
4 group homes, skilled nursing facilities, intermediate care
5 facilities, community care facilities, and mental health
6 rehabilitation centers.

7 (b) (1) ~~As funds become available, the~~ The secretary or his or
8 her designee shall develop technical assistance and training
9 programs to support the efforts of facilities to reduce or eliminate
10 the use of seclusion and behavioral restraints in those facilities that
11 utilize them.

12 (2) Technical assistance and training programs should be
13 designed with the input of stakeholders, including clients and
14 direct care staff, and should be based on best practices that lead to
15 the avoidance of *the use of* seclusion and behavioral restraints,
16 including, but not limited to, all of the following:

17 (A) ~~Conducting an intake assessment that is consistent with~~
18 ~~facility policies and that includes issues specific to seclusion and~~
19 ~~behavioral restraints as specified in Section 1180.4.~~

20 (B) ~~Utilizing strategies to engage clients collaboratively in~~
21 ~~assessment, avoidance, and management of crisis situations in~~
22 ~~order to prevent incidents of seclusion and behavioral restraints.~~

23 (C) ~~Recognizing and responding appropriately to underlying~~
24 ~~reasons for escalating behavior.~~

25 (D) ~~Utilizing conflict resolution, effective communication,~~
26 ~~deescalation, and client-centered problem-solving strategies that~~
27 ~~diffuse and safely resolve emerging crisis situations.~~

28 (E) ~~Individual treatment planning that identifies risk factors,~~
29 ~~positive early intervention strategies, and strategies to minimize~~
30 ~~time spent in seclusion or behavioral restraints. Individual~~
31 ~~treatment planning should include input from the person affected.~~

32 (F) ~~While minimizing the duration of time spent in seclusion or~~
33 ~~behavioral restraints, using strategies to mitigate the emotional~~
34 ~~and physical discomfort and ensure the safety of the person~~
35 ~~involved in seclusion or behavioral restraints, including input~~
36 ~~from the person about what would alleviate his or her distress.~~

37 (G) ~~Training in conducting an effective debriefing meeting as~~
38 ~~specified in Section 1180.5, including the appropriate persons to~~
39 ~~involve, the voluntary participation of the person who has been in~~
40 ~~seclusion or behavioral restraints, and strategic interventions to~~

1 ~~engage affected persons in the process. The training should include~~
2 ~~strategies that result in maximum participation and comfort for the~~
3 ~~involved parties to identify factors that lead to seclusion and~~
4 ~~behavioral restraints and factors that would reduce the likelihood~~
5 ~~of future incidents. restraints. In order to avoid redundancies and~~
6 ~~to promote consistency across various types of facilities, it is the~~
7 ~~intent of the Legislature that the technical assistance and training~~
8 ~~program, to the extent possible, be based on that developed~~
9 ~~pursuant of Section 1180.2.~~

10 (c) (1) ~~Within existing resources, the~~ The secretary or his or
11 her designee shall take steps to establish a system of mandatory,
12 consistent, timely, and publicly accessible data collection
13 regarding the use of seclusion and behavioral restraints in all
14 facilities described in subdivision (a) that utilize seclusion and
15 behavioral restraints. In determining a system of data collection,
16 the secretary should utilize existing efforts, and direct new or
17 ongoing efforts, of associated state departments to revise or
18 improve their data collection systems. The secretary *or his or her*
19 *designee* shall make recommendations for a mechanism to ensure
20 compliance by facilities, including, but not limited to, penalties for
21 failure to report in a timely manner. It is the intent of the
22 Legislature that data be compiled in a manner that allows for
23 standard statistical comparison and be maintained for each facility
24 subject to reporting requirements for the use of seclusion and
25 behavioral restraints.

26 (2) The secretary shall develop a mechanism for making this
27 information, as it becomes available, publicly available on the
28 Internet. ~~This~~ *For data currently being collected, this* paragraph
29 *shall be implemented as soon as it reasonably can be achieved*
30 *within existing resources. As new reporting requirements are*
31 *developed and result in additional data becoming available, this*
32 *additional data shall be included in the data publicly available on*
33 *the Internet pursuant to this paragraph.*

34 (3) ~~The~~ *At the direction of the secretary, the* departments shall
35 cooperate and share resources ~~to develop~~ *for developing* uniform
36 reporting for all facilities, ~~by establishing new or amending~~
37 *facilities. Uniform reporting of seclusion and behavioral restraint*
38 *utilization information shall, to the extent possible, be*
39 *incorporated into existing reporting requirements for facilities*
40 *described in subdivision (a). As additional facilities are required*

1 ~~to report information regarding the utilization of seclusion and~~
2 ~~behavioral restraints, the information shall be made publicly~~
3 ~~available pursuant to this subdivision.~~

4 (4) Data collected pursuant to this subdivision shall include all
5 of the following:

6 (A) ~~The number of deaths that occur while persons are in~~
7 ~~seclusion or behavioral restraints, or where it is reasonable to~~
8 ~~assume that a death was proximately related to the use of seclusion~~
9 ~~or behavioral restraints.~~

10 (B) ~~The number of serious injuries sustained by persons while~~
11 ~~in seclusion or subject to behavioral restraints.~~

12 (C) ~~The number of serious injuries sustained by staff that occur~~
13 ~~during the use of seclusion or behavioral restraints.~~

14 (D) ~~The number of incidents of seclusion.~~

15 (E) ~~The number of incidents of use of behavioral restraints.~~

16 (F) ~~The duration of time spent per incident in seclusion.~~

17 (G) ~~The duration of time spent per incident subject to~~
18 ~~behavioral restraints.~~

19 (H) ~~The use of involuntary emergency medication to control~~
20 ~~behavior.~~

21 (5) ~~Within existing resources, the secretary or his or her~~
22 ~~designee shall make recommendations to the Legislature on how~~
23 ~~to best assess the impact of serious staff injuries sustained during~~
24 ~~the use of seclusion or behavioral restraints, on staffing costs and~~
25 ~~on workers' compensation claims and costs.~~

26 (6) ~~Within existing resources, the data described in paragraph~~
27 ~~(3) of subdivision (d) of Section 1180.2.~~

28 (5) The secretary or his or her designee shall work with the state
29 departments that have responsibility for oversight of seclusion and
30 behavioral restraints to review and eliminate redundancies and
31 outdated requirements in the reporting of data on seclusion and
32 behavioral restraints. *restraints in order to ensure*
33 *cost-effectiveness.*

34 (d) ~~This section should be implemented as soon as it can~~
35 ~~reasonably be achieved within existing resources. Neither the~~
36 ~~agency nor any department shall be required to implement this~~
37 ~~section if implementation cannot be achieved within existing~~
38 ~~resources, unless additional funding for this purpose becomes~~
39 ~~available. The agency and involved departments may~~
40 ~~incrementally implement this section in order to accomplish its~~

goals within existing resources, ~~or~~ through the use of federal or private ~~funding or any funding, or upon the~~ subsequent appropriation ~~of funds~~ by the Legislature ~~for this purpose~~, or all of these.

1180.4. (a) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall conduct an initial assessment of each person *prior to a placement decision* or upon admission to the facility, or as soon thereafter as possible. This assessment shall include input from the person and from someone whom he or she desires to be present, such as a family member, significant other, or authorized representative designated by the person, and if the desired third party can be present at the time of admission. This assessment shall also include, based on the information available at the time of initial assessment, all of the following:

(1) A person's advance directive regarding deescalation or the use of seclusion or behavioral restraints.

(2) Identification of early warning signs, triggers, and precipitants that cause a person to escalate, and identification of the earliest precipitant of aggression for persons with a known or suspected history of aggressiveness, or persons who are currently aggressive.

(3) Techniques, methods, or tools that would help the person control his or her behavior.

(4) Preexisting medical conditions or any physical disabilities or limitations that would place the person at greater risk during restraint or seclusion.

(5) Any trauma history, including any history of sexual or physical abuse that the affected person feels is relevant.

(b) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 may use seclusion or behavioral restraints for behavioral emergencies only when a person's behavior presents an imminent danger of serious harm to self or others.

(c) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) Section 1180.3 may not use either of the following:

(1) A physical restraint or containment technique that obstructs a person's respiratory airway or impairs the person's breathing or respiratory capacity, including techniques in which a staff member

1 places pressure on a person's back or places his or her body weight
2 against the person's torso or back.

3 (2) A pillow, blanket, or other item covering the person's face
4 as part of a physical or mechanical restraint or containment
5 process.

6 (d) A facility described in subdivision (a) of Section 1180.2 or
7 subdivision (a) Section 1180.3 may not use physical or mechanical
8 restraint or containment on a person who has a known medical or
9 physical condition, and where there is reason to believe that the use
10 would endanger the person's life or seriously exacerbate the
11 person's medical condition.

12 (d) (1) A facility described in subdivision (a) of Section
13 1180.2 or subdivision (a) of Section 1180.3 may not use prone
14 mechanical restraint on a person at risk for positional asphyxiation
15 as a result of one of the following risk factors that are known to the
16 provider:

17 (A) Obesity.

18 (B) Pregnancy.

19 (C) Agitated delirium or excited delirium syndromes.

20 (D) Cocaine, methamphetamine, or alcohol intoxication.

21 (E) Exposure to pepper spray.

22 (F) Preexisting heart disease, including, but not limited to, an
23 enlarged heart ~~and~~ or other cardiovascular disorders.

24 (G) Respiratory conditions, including emphysema, bronchitis,
25 or asthma.

26 (2) Paragraph (1) shall not apply when written authorization
27 has been provided by a physician, made to accommodate a
28 person's stated preference for the prone position or because the
29 physician judges other clinical risks to take precedence. The
30 written authorization may not be a standing order, and shall be
31 evaluated on a case-by-case basis by the physician.

32 (e) A facility described in subdivision (a) of Section 1180.2 or
33 subdivision (a) of Section 1180.3 shall avoid the deliberate use of
34 prone containment techniques whenever possible, utilizing the
35 best practices in early intervention techniques, such as
36 deescalation. If prone containment techniques are used in an
37 emergency situation, a staff member shall observe the person for
38 any signs of physical duress throughout the use of prone
39 containment. Whenever possible, the staff member monitoring the
40 person shall not be involved in restraining the person.



1 (f) A facility described in subdivision (a) of Section 1180.2 or
2 subdivision (a) of Section 1180.3 may not place a person in a
3 facedown position with *the person's* hands held or restrained
4 behind the person's back.

5 (g) A facility described in subdivision (a) of Section 1180.2 or
6 subdivision (a) of Section 1180.3 may not use physical restraint or
7 containment as an extended procedure.

8 (h) A facility described in subdivision (a) of Section 1180.2 or
9 subdivision (a) of Section 1180.3 shall keep under constant,
10 face-to-face human observation a person who is in seclusion and
11 in any type of behavioral restraint at the same time. Observation
12 by means of video camera may be utilized only in facilities that are
13 already permitted to use video monitoring under federal
14 regulations specific to that facility.

15 (i) A facility described in subdivision (a) of Section 1180.2 or
16 subdivision (a) of Section 1180.3 shall afford to persons who are
17 restrained the least restrictive alternative and the maximum
18 freedom of movement, while ensuring the physical safety of the
19 person and others, and shall use the least number of restraint
20 points.

21 (j) A person in a facility described in subdivision (a) of Section
22 1180.2 and subdivision (a) of Section 1180.3 has the right to be
23 free from the use of seclusion and behavioral restraints of any form
24 imposed as a means of coercion, discipline, convenience, or
25 retaliation by staff. This right includes, but is not limited to, the
26 right to be free from the use of a drug used in order to control
27 behavior or to restrict the person's freedom of movement, if that
28 drug is not a standard treatment for the person's medical or
29 psychiatric condition.

30 1180.5. (a) A facility described in subdivision (a) of Section
31 1180.2 or subdivision (a) of Section 1180.3 shall conduct a clinical
32 and quality review for each episode of the use of seclusion or
33 behavioral restraints.

34 (b) A facility described in subdivision (a) of Section 1180.2 or
35 subdivision (a) of Section 1180.3 shall, as quickly as possible but
36 no later than 24 hours after the use of seclusion or behavioral
37 restraints, conduct a debriefing regarding the incident with the
38 person, and, if the person requests it, the person's family member,
39 domestic partner, significant other, or authorized representative, if
40 the desired third party can be present at the time of the debriefing

1 at no cost to the facility, as well as *with* the staff members involved
2 in the incident, if reasonably available, and a supervisor, to discuss
3 how to avoid a similar incident in the future. The person's
4 participation in the debriefing shall be voluntary. The purposes of
5 the debriefing shall be to do all of the following:

6 (1) Assist the person to identify the precipitant of the incident,
7 and suggest methods of more safely and constructively responding
8 to the incident.

9 (2) Assist the staff to understand the precipitants to the
10 incident, and develop alternative methods of helping the person
11 avoid or cope with those incidents.

12 (3) Help treatment team staff devise treatment interventions to
13 address the root cause of the incident and its consequences, and to
14 modify the treatment plan.

15 (4) Help assess whether the intervention was necessary and
16 whether it was implemented in a manner consistent with staff
17 training and hospital policies.

18 (c) The facility shall, in the debriefing, provide both the person
19 and staff the opportunity to discuss the circumstances resulting in
20 the use of seclusion or behavioral restraints, and strategies to be
21 used by the staff, the person, or others that could prevent the future
22 use of seclusion or behavioral restraints.

23 (d) The facility staff shall document in the person's record that
24 the debriefing session took place and any changes to the person's
25 treatment plan that resulted from the debriefing.

26 1180.6. The State Department of Health Services, the State
27 Department of Mental Health, the State Department of Social
28 Services, and the State Department of Developmental Services
29 shall annually provide information to the Legislature, during
30 Senate and Assembly budget committee hearings, about the
31 progress made in implementing this division. This information
32 shall include the progress of implementation and barriers to
33 achieving full implementation.

